



October 21, 2002 **RECEIVED**

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
236 Massachusetts Avenue, N.E.
Suite 110
Washington, D.C. 2002

**Re: In the Matter of Amendment of Section 73.202(b)
Table of Allotments, FM Broadcast Stations
(Smiley, Texas)
MB Docket No. 02-248; RM-10537
Counterproposal**

Dear Ms. Dortch:

LBR Enterprises, Inc. (FRN: 0003-7790-22), the licensee of KZRC(FM), Markham, Texas (FCC Facility ID No, 87439), by its attorneys and pursuant to the Notice of Proposed Rule Making, DA 02-2061, MB Docket No. 02-248, RM-10537, released August 30, 2002, hereby submits an original and four (4) copies of its counterproposal.

Should any questions arise concerning this matter, please contact this office directly.

Sincerely,

Patricia M. Chuh

Enclosure

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Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Section 73.202(b),) MB Docket No. 02-248
Table of Allotments,) RM-10537
FM Broadcast Stations,)
(Smiley, Texas))

To: Chief, Audio Division

COUNTERPROPOSAL

LBR Enterprises, Inc. ("LBR"), the licensee of KZRC(FM), Markham, Texas (FCC Facility ID No. 87439), by its attorneys and pursuant to the Notice of Proposed Rule Making, DA 02-2061, MB Docket No. 02-248, RM-10537, released August 30, 2002 ("NPRM"), hereby submits its counterproposal in the above-referenced rule making proceeding.¹ In support thereof, the following is respectfully submitted:

Introduction

1. In response to a Petition for Rule Making filed by Linda Crawford ("Petitioner"), the Commission released the NPRM proposing the allotment of Channel 280A at Smiley, Texas as that community's first local aural transmission service ("Petitioner's Allotment Plan").² The NPRM established October 21, 2002 as the due date for filing comments and counterproposals,

¹ The NPRM established October 21, 2002 as the deadline for filing comments and counterproposals. Accordingly, the instant Counterproposal is timely filed.

² The allotment of Channel 280A at Smiley, Texas requires a site restriction of 10.3 kilometers east of Smiley, Texas, according to the NPRM. Moreover, because Smiley, Texas is located within 320 kilometers of the U.S.-Mexico border, concurrence must be sought from the Mexican Government

and November 5, 2002 as the due date for filing reply comments. On September 18, 2002, the Petitioner filed comments in support of Petitioner's Allotment Plan.

Counterproposal

2. In lieu of Petitioner's Allotment Plan, LBR proposes the following counterproposal: (a) substitution of Channel 280A for Channel 223A at Yoakum, Texas and the modification of KYKM(FM), Yoakum, Texas (FCC Facility ID No. 67287) to specify operation on Channel 280A at Yoakum, Texas; and (b) substitution of Channel 223C3 for Channel 223A at Markham, Texas and the modification of KZRC(FM), Markham, Texas (FCC Facility ID No. 87439) to specify operation on Channel 223C3 at Markham, Texas ("Counterproposal").

3. As demonstrated in the attached Engineering Exhibit prepared by Mueller Broadcast Design ("Engineering Exhibit"), Channel 280A can be allotted to Yoakum, Texas in full compliance with FCC rules, 47 C.F.R. § 73.207, from a site approximately 8.6 kilometers south of the current KYKM(FM) site at 29-17-15 North Latitude and 97-09-06 West Longitude (NAD 27). Channel 223C3 can also be allotted to Markham, Texas in full compliance with FCC rules, 47 C.F.R. § 73.207, at a site approximately 6.5 kilometers southeast of the current KZRC(FM) site at 28-51-45 North Latitude and 96-04-30 West Longitude (**NAD27**). See Engineering Exhibit.

4. The Counterproposal is in the public interest because it will result in a fair and efficient distribution of allocations by providing Markham, Texas and the surrounding area with its first wide-area FM commercial broadcast service. See Engineering Exhibit. Moreover, service to Yoakum, Texas will be expanded by a fully-spaced 6 kilowatt Class A station and current short-spacing at Yoakum will be eliminated. Id.

5. The Counterproposal will also result in a significant 60 dBu population increase, as compared to the Petitioner's Allotment Plan. Id. The 60 dBu contour of Channel 280A at Smiley, Texas will service 11,476 persons, of which 4,646 would also be served by Channel 280A at Yoakum, Texas. Id. As a result, Petitioner's Allotment Plan will result in a net increase in service to 6,819 persons at Smiley, Texas. Id.

6. The Counterproposal will result in a greater net increase than Petitioner's Allotment Plan. Id. The operation of KZRC(FM) on Channel 223C3 at ~~Markham~~ Markham will result in a net increase in service to 7,444 persons (from 33,900 to 41,344 persons), the 60 dBu population for operation of KYKM(FM) on Channel 280A at Yoakum, Texas will increase from 15,184 to 26,511 persons, a gain of 11,432 persons of which 4,646 would also be served by Channel 280A at Smiley, Texas. Id. Accordingly, the Counterproposal will result in a net increase of 14,230 persons (7,444 plus 11,432 less 4,646 persons) in the 60 dBu population served, almost 210% of the service proposed in Petitioner's Allotment Plan. Therefore, LBR proposes that the FM Table of Allotment be amended as follows:

<u>Community of License</u>	<u>Present Allotment</u>	<u>Proposed Allotment</u>
Yoakum, Texas	Channel 223A	Channel 280A
Markham, Texas	Channel 223A	Channel 223C3

7. LBR hereby states its commitment to reimburse the licensee of KYKM(FM) for the costs incurred in changing frequencies, should the Commission adopt the Counterproposal. LBR also hereby states its present intention to apply for Channel 223C3 at Markham, Texas when allotted, and when authorized to promptly build the modified facilities of KZRC(FM) and commence operation on Channel 223C3.

WHEREFORE, for the reasons above, the Commission should adopt the Counterproposal by (a) substituting Channel 280A for Channel 223A at Yoakum, Texas and modifying KYKM(FM), Yoakum, Texas (FCC Facility ID No. 67287) to specify operation on Channel 223A at Yoakum, Texas; and (b) substituting Channel 223C3 for Channel 223A at Markham, Texas and modifying KZRC(FM), Markham, Texas (FCC Facility ID No. 87439) to specify operation on Channel 223C3 at Markham, Texas

Respectfully submitted,

LBR Enterprises, Inc.

October 21, 2002

By: _____



Gregg P. Skall, Esq.

Patricia M. Chuh, Esq.

Its Attorneys

Womble Carlyle Sandridge & Rice, PLLC

1401 Eye Street, Seventh Floor

Washington, D.C. 20005

202/467-6900

**Counterproposal Supporting Engineering Exhibit
For
FM Channel 223A Markham, Texas,
FM Channel 280A, Smiley, Texas
FM Channel 223A, Yoakum, Texas**

This engineering exhibit was prepared in support of a Counterproposal to pending Rulemaking RM-10537 to amend 47 CFR 73.202(b).

RM-10537 proposes that channel 280A be allocated to Smiley, Texas as it's first local aural service. This counterproposal instead proposed that channel 280A be substituted for currently allocated channel 223A at Yoakum, Texas and the license of KYKM, Yoakum, TX be modified to show operation on channel 280A in lieu of channel 223A. Channel 280A can be allotted to Yoakum in full compliance with the FCC rules at 47 CFR 73.207 from a site approximately 8.6 kilometers south of the current KYKM site.

It is further counter proposed that the current allotment of channel 223A at Markham, Texas be changed to 223C3 and that the license of KZRC, Markham, Texas be modified to show operation on channel 223C3 in lieu of channel 223A. Channel 223C3 can be allotted to Markham in full compliance with the FCC rules at 47 CFR 73.207 at a site approximately 6.5 kilometers southeast of the current KZRC site.

The proposed channel allocations can be made in full compliance with FCC rules. The NAD 27 geographic coordinates of the reference points are:

Markham, TX 223C3: 28° 51' 45"N - 96° 04' 30"W

Yoakum, TX 280A: 29° 17' 15"N - 97° 09' 06" W

Mueller Broadcast Design613 S. La Grange Road
La Grange, Illinois 60525
(708) 352-2166Community of LicensePresentProposed

Yoakum, Texas

223A

280A

Markham, Texas

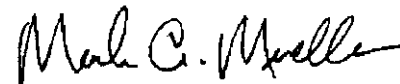
223A

223C3

It is respectfully submitted that the allotment of channels 280A and 223C3 as outlined herein is in the public interest, will result in a fair and efficient distribution of allocations, and provide Markham, Texas and the surrounding area with its first wide-area FM commercial broadcast service, plus provide Yoakum, Texas with a fully-spaced, full-facility 6 KW REP Class-A station, thus expanding broadcast service to the public and eliminating a current short-spacing at Yoakum.

Finally, there are significant 60 dBu population increases with this counter-proposal over the Smiley proposal. The population inside the Smiley channel 280A 60 dBu contour is 11,465 of which 4,646 would also be served by channel 280A at Yoakum, resulting in a net increase of 6,819 at Smiley. The Yoakum and Markham proposal cannot be implemented if channel 280A is allotted to Smiley. However, KZRC on channel 223C3 at Markham would experience an increase of 7,444 (from 33,900 to 41,344) while the 60 dBu population for KYKM on channel 280A at Yoakum would increase from 15,184 to 26,511, a gain of 11,432 of which 4,646 would also be served by channel 280A at Smiley. The total counterproposal increase in 60 dBu population is then 14,230 ($7,444 + 11,432 - 4,646$), almost 210% of the Smiley increase.

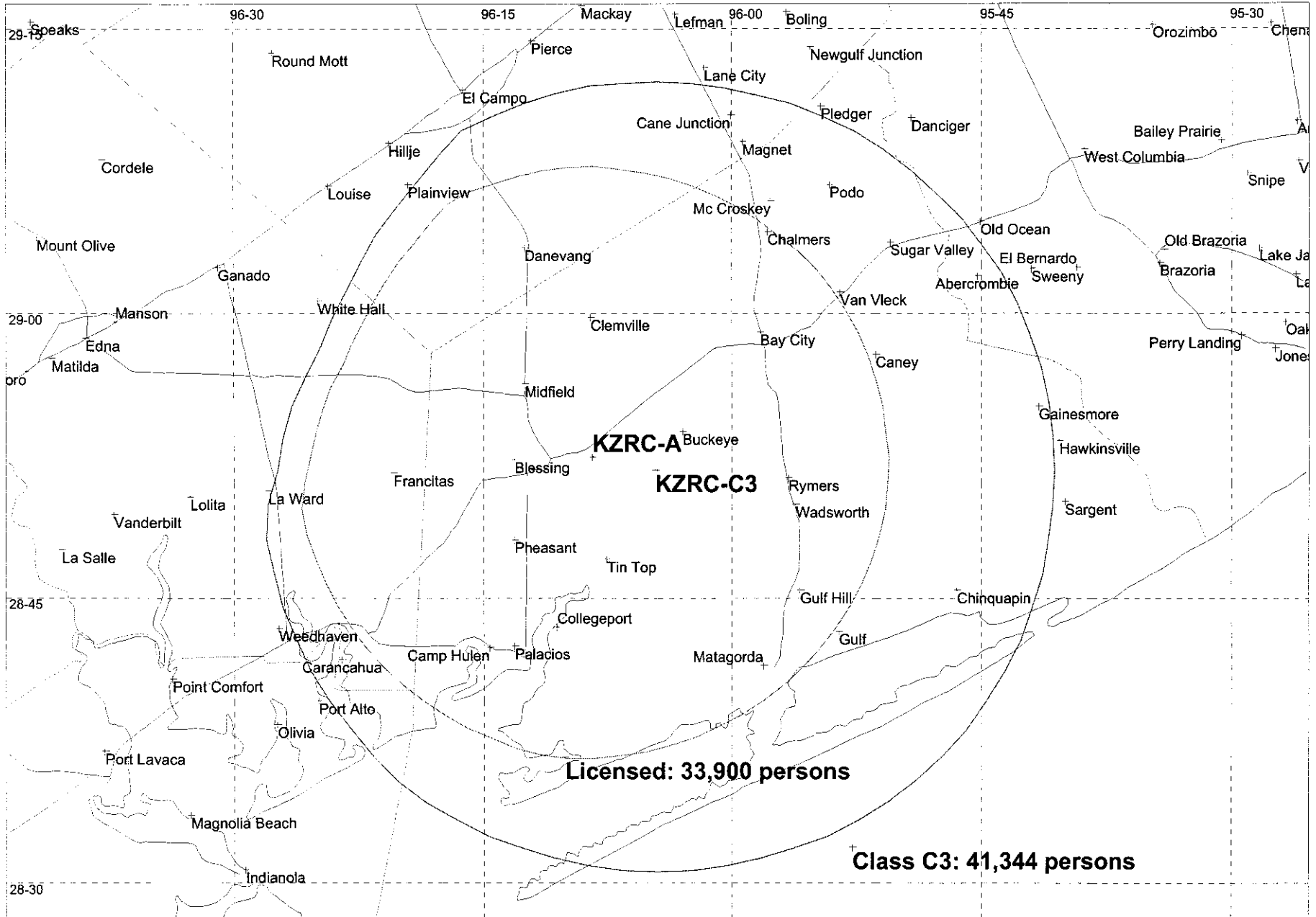
This engineering exhibit was prepared by me and is true and correct to the best of my knowledge and belief.



October 18, 2002

Mark A. Mueller

KZRC 60 dBu Population Comparison

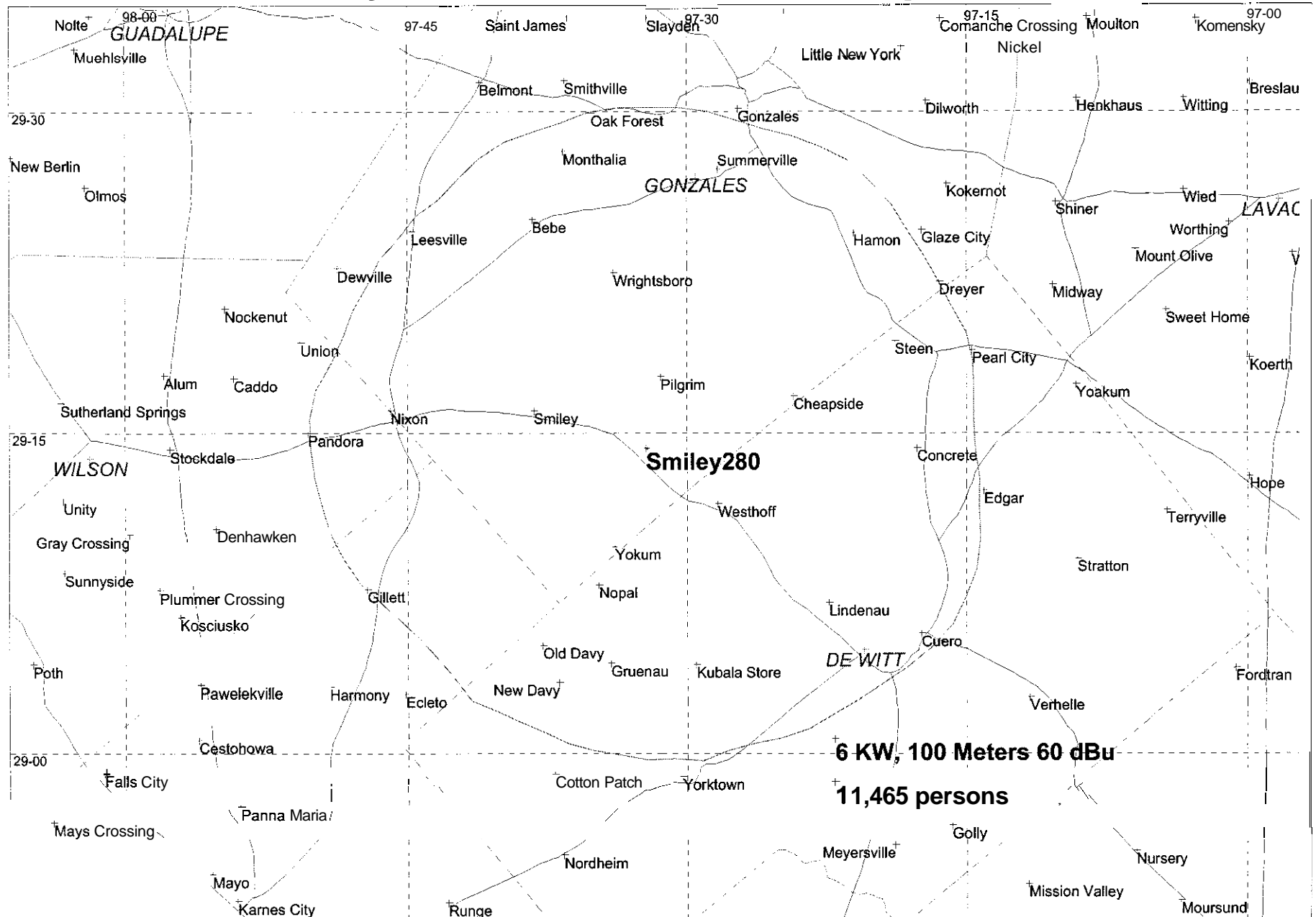


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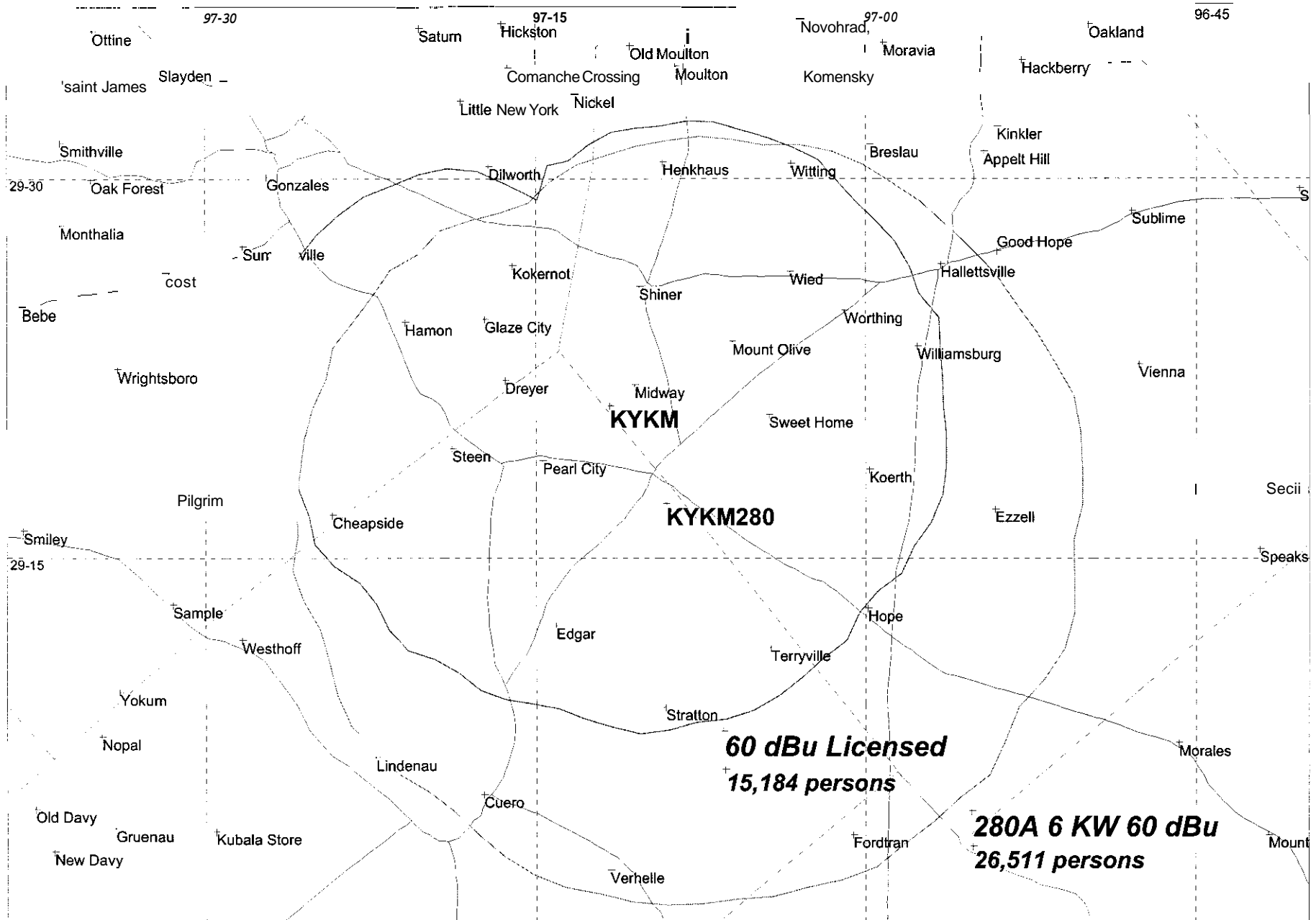
Scale 1:500000

10 Km

Smiley, Texas 280A 60 dBu Population



KYKM 280A (6 KW) Coverage Comparison



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Scale 1:380000

10 Km | |

The map displays the Clear Area in the San Francisco Bay Area, showing various cities and towns. The map is divided into three main sections by a dashed line. The top section is labeled **KZRC** and includes cities like Danavang, Clemmille, Midfield, and Bessing. The middle section is labeled **KJOFM** and includes cities like Sargent, Chiquapih, and Matagorda. The bottom section is labeled **KVLT** and includes cities like Carr, Dacosta, and Placato. The map also shows the **CLEAR AREA** and **Markham** regions. The map is oriented with North at the top.

Scale 1:810000

25 Km |

The map displays the Yoakum, Texas area, with a large 'CLEAR AREA (6 KW)' highlighted in the center. The map includes numerous towns and cities, such as Bellville, Fayetteville, La Grange, Waco, and Yoakum. The map is oriented with North at the top.


CERTIFICATE OF SERVICE

I, Dina Etemadi, a secretary in the law ~~firm~~ of Womble Carlyle Sandridge & Rice, PLLC, do hereby certify that true copies of the foregoing "Counterproposal" were sent this 21st day of October, 2002 by U.S. first class mail, postage prepaid, to the following:

Ms. Linda Crawford
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Dallas, TX 75219

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Washington, D.C. 20036
(Counsel for Linda Crawford)

Fort Bend Broadcasting Company, Inc.
1110 West William Cannon Drive, Suite 402
Austin, TX 78745
(Licensee of KYKM(FM), Yoakum, Texas)



Dina Etemadi